

ATTORNEY'S DOCKET
067856.0110

1

PATENT APPLICATION
09/620,108

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: HIPP, Christopher G.
Serial No.: 09/620,108
Filing Date: July 20, 2000
Examiner: Office of Petitions
Title: *Data I/O Management System and Method*

BOX PETITIONS

Assistant Commissioner
for Patents
Crystal Park One, Suite 520
Washington, D.C. 20231

"EXPRESS MAIL"

Express Mailing Label Number EL501026626US
Date of Deposit: September 27, 2000
I hereby certify that this paper or fee is being deposited with
the United States Postal Service "Express Mail Post Office to
Addressee" service under 37 CFR 1.10 on the date indicated
above and is addressed to the Assistant Commissioner for
Patents, Washington, D.C. 20231.

Willie Jiles
Willie Jiles

Dear Sir:

RECEIVED

DEC 13 2001

PETITION UNDER 37 CFR 1.53(e)

OFFICE OF PETITIONS
DEPUTY A/C PATENTS

On September 11, 2000, the United States Patent and Trademark Office ("USPTO") mailed a *Notice of Omitted Item(s) in a Nonprovisional Application* ("Notice of Omitted Items", attached as EXHIBIT A), indicating that pages 35 and 37 of the Specification appear to have been omitted from *U.S. Patent Application Serial No. 09/620,108* ("Patent Application"). This petition is being filed to establish prior receipt in the USPTO of pages 35 and 37 of the Specification. Applicants respectfully contend that all papers associated with the *Patent Application*, including pages 35 and 37 of the

Specification, were properly received in the USPTO, and should be accorded a filing date of July 20, 2000. Applicants attach the following evidence in support of this contention:

- **EXHIBIT A** is a true copy of the *Notice of Omitted Items* received by Applicants, from the USPTO (mailed September 11, 2000);
- **EXHIBIT B** is a true copy of pages 35 and 37 of the Specification;
- **EXHIBIT C** is a true copy of the date-stamped *Postcard Receipt* ("Postcard Receipt") received by Applicants, from the USPTO, which bears a USPTO mailroom stamp of July 20, 2000, and which indicates that the *Patent Application* was assigned serial number 09/620108;
- **EXHIBIT D** is a true copy of *Express Mail Receipt EL501044284US* ("Express Mail Receipt") received by Applicants, from the United States Post Office (Dallas, Texas);
- **EXHIBIT E** is a true copy of the *Certificate of Mailing by Express Mail* ("Certificate of Mailing") mailed to the USPTO with the *Patent Application*, on July 20, 2000;
- **EXHIBIT F** is a true copy of the *Transmittal for U.S. Patent Application Under 37 CFR 1.53(b)* ("Transmittal") mailed to the USPTO with the *Patent Application*, on July 20, 2000; and
- **EXHIBIT G** is a true copy of all materials included with the *Patent Application*, mailed to the USPTO on July 20, 2000.

For the convenience of the Office of Petitions, Applicants have highlighted and tabbed portions of the attached Exhibits.

Summary

Applicants contend that the entire *Patent Application*, including pages 35 and 37 of the Specification, were received by the USPTO and warrant a filing date of July 20, 2000. Applicants base this contention on the following:

A. Applicants have attached the *Postcard Receipt* (EXHIBIT C), *Certificate of Mailing* (EXHIBIT E), and *Transmittal* (EXHIBIT F) which establish that sixty-nine (69) total pages of the Specification, Claims and Abstract were received by the USPTO with the *Patent Application*. Furthermore, the sixty-nine total pages include pages 35 and 37 of the Specification.

B. Applicants' standard practices and procedures, as well as Applicants' records, establish that the entire *Patent Application*, including pages 35 and 37 of the Specification, were mailed to the USPTO, via "Express Mail Post Office to Addressee" service of the United States Postal Service, on July 20, 2000.

A. The USPTO acknowledged receipt of the entire *Patent Application*

Applicants have attached evidence indicating that the USPTO received, and acknowledged receipt of the entire *Patent Application*, including pages 35 and 37 of the Specification. Attached is a true copy of the date-stamped *Postcard Receipt* (EXHIBIT C) received by Applicants, from the USPTO. This *Postcard Receipt* acknowledges receipt of, among other things, the *Certificate of Mailing* (EXHIBIT E). The *Certificate of Mailing* certifies that the *Transmittal* (EXHIBIT F), among other

things, was received by the USPTO, with the *Patent Application*. Furthermore, the *Transmittal* indicates that the "Specification, Claims and Abstract (69 Total Pages)" are enclosed. The "69 Total Pages" referred to on the *Transmittal* include pages 35 and 37 of the Specification.

Applicants justifiably relied upon the date-stamped *Postcard Receipt* as evidence that the entire *Patent Application* was received by the USPTO. Applicants are aware of the policy of the USPTO to carefully review all applications for patent and associated paperwork for discrepancies. If the USPTO had not received the "69 Total Pages" referred to on the *Transmittal*, the USPTO would not have date-stamped and issued the *Postcard Receipt*. Based on the date-stamped *Postcard Receipt*, it was the understanding of Applicants that a complete and proper text for the *Patent Application*, including pages 35 and 37 of the Specification, had been received by the USPTO, on July 20, 2000.

Furthermore, Applicants are aware that the mailroom of the USPTO tends to very carefully check the completeness of all applications for patent received in the USPTO. In this case, the pages of the *Patent Application* were consecutively numbered. Applicants believe that any missing pages, including pages 35 and 37 of the Specification, would have been detected by the mailroom, and the date-stamped *Postcard Receipt* would not have been issued.

B. Applicants' records indicate that pages 35 and 37 of the Specification were mailed to the USPTO

Applicants' records, and standard practices and procedures indicate that the entire *Patent Application* was mailed to the USPTO, via Express Mail, on July 20, 2000. It is the policy of Applicants to carefully review the contents of all patent applications, prior to mailing to the USPTO. It is also the policy of Applicants to

photocopy all patent applications prior to mailing. In this particular case, Applicants photocopied the contents of the *Patent Application* twice, prior to mailing the Patent Application. One photocopy was retained in the file, and one photocopy was delivered to the undersigned, for record keeping purposes. The undersigned has reviewed both photocopies of the Patent Application, and both photocopies include pages 35 and 37 of the Specification. The undersigned has also carefully compared pages 35 and 37 of the photocopies with EXHIBIT B, and hereby states that the photocopies of pages 35 and 37 are in fact true copies of pages 35 and 37 of the Patent Application, mailed on July 20, 2000. Furthermore, EXHIBIT G is a true copy of all of the materials mailed by Applicants to the USPTO, via Express Mail, on July 20, 2000, including pages 35 and 37 of the Specification.

Applicants also note that exact duplicates of the text found on pages 35 and 37 of the Specification were received by the USPTO as part of the following applications:

<u>Application Serial No.</u>	<u>Filing Date</u>	<u>Pages Identical to Pages 35 and 37 of the Specification</u>
09/620,105	07/20/2000	35 and 37
09/620,106	07/20/2000	36 and 38
09/620,107	07/20/2000	35 and 37

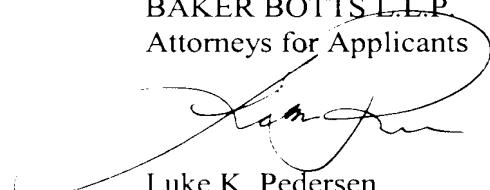
In each of the above-referenced applications, duplicate pages 35 and 37 of the Specification were received by the USPTO, and Applicants have received a filing receipt for each application. Accordingly, Applicants have shown that pages 35 and 37 of the Specification were received in the USPTO on July 20, 2000, *albeit*, associated with other applications in those instances.

Conclusion

For at least these reasons, Applicants have demonstrated that the entire *Patent Application* was received by the USPTO on July 20, 2000. Accordingly, Applicants respectfully request the granting of this petition, and that a filing date of July 20, 2000 be afforded to the entire *Patent Application*, including pages 35 and 37 of the Specification.

Applicants have attached a check in the amount of \$130.00, pursuant to 37 CFR 1.53(e) and 37 CFR 1.17(i). The Commissioner is hereby authorized to charge any additional amount due or credit any overpayment to Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
BAKER BOTTs L.L.P.
Attorneys for Applicants



Luke K. Pedersen
Reg. No. 45,003

2001 Ross Avenue
Dallas, Texas 75201-2980
Tel. 214.953.6684

Date: 9/27/00

Enclosures